

Docket No.: ALAR18.001APC

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AMENDMENT / RESPONSE TRANSMITTAL

Applicant : Millar et al.
App. No : 10/543,017
Filed : July 22, 2005
For : ASSAY FOR DETECTING
METHYLATION CHANGES IN
NUCLEIC ACIDS USING AN
INTERCALATING NUCLEIC ACID
Examiner : Unassigned
Art Unit : Unknown

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Neil S. Bartfeld, Ph.D., Reg. No. 39,901


Mail Stop PCT
Office of PCT Legal Administration
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith for filing in the above-identified application are the following enclosures:

- (X) Renewed Petition under 37 C.F.R. § 1.47(a) in 2 pages.
- (X) Revised Declaration in Support of Petition under 37 C.F.R. § 1.47(a) in 2 pages.

Please charge any additional fees, including any fees for additional extension of time, or
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Neil S. Bartfeld, Ph.D.
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ALAR18.001APC

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Neil S. Bayfield, Ph.D., Rcg. No. 39,901

RENEWED PETITION UNDER 37 C.F.R. § 1.47(a)

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Office of PCT Legal Administration
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants hereby request reconsideration of the Decision on Petition mailed August 31, 2006, in the above-referenced application. The PTO dismissed the petition, alleging that "applicant has not included any evidence that would show that Dr. Miklos knew specifically which invention was being discussed when he refused to sign the declaration", and that:

"applicant must provide a showing that the inventor was aware of the particulars of what he was being asked to sign, either through the mailing of the papers to the inventor or through a statement from Dr. Davies that shows that it was clear at the meeting of May 25, 2006 that Dr. Miklos was aware of the particulars of the application in question, i.e. that there was a complete set of application papers available for his review."

Enclosed herewith is a revised Declaration of Dr. Trevor Davies in Support of the Petition Under 37 C.F.R. § 1.47 (a). Paragraph 5 of the revised Declaration states that a complete set of application papers, including specification, drawings, claims, declaration and assignment, was presented to Dr. Miklos in person at a meeting that took place between him and Dr. Davies

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Filed : July 22, 2005

on May 25, 2006. Moreover, paragraph 2 of the revised Declaration states that Dr. Davies understands that a complete set of application papers was mailed to the last known address of Dr. Miklos for his review. Thus, as required by M.P.E.P. 409.03(d), a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature. Therefore, it is clear that Dr. Miklos understood exactly what he was being asked to sign, will not sign the Declaration, and has refused to join in the application. Accordingly, favorable reconsideration of the renewed petition is respectfully requested.

No fees are believed to be due. Please charge any additional fees, including any fees for additional extensions of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: October 19, 2006

By: 

Neil S. Bartfeld, Ph.D.

Registration No. 39,901

Agent of Record

Customer No. 20,995

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Millar et al.
App. No	:	10/543,017
Filed	:	July 22, 2005
For	:	ASSAY FOR DETECTING METHYLATION CHANGES IN NUCLEIC ACIDS USING AN INTERCALATING NUCLEIC ACID
Examiner	:	Not yet assigned
Art Unit	:	Unknown

REVISED DECLARATION IN SUPPORT OF PETITION UNDER 37 C.F.R. § 1.47(a)

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

1. I am an Australian patent attorney supervising prosecution of the above-referenced patent application on behalf of my client, Human Genetic Signatures Pty. Ltd.
2. I understand that a complete set of application papers for the above-referenced application, including specification, claims, and drawings, plus a declaration and assignment, was mailed to the last known address of Dr. George Miklos on April 20, 2006, one of the inventors of the above-referenced application. This address is 19 Bungan Head Road, Newport NSW 2108 Australia.
3. On May 3, 2006 at the request of Human Genetic Signatures Pty. Ltd, I contacted Dr. Miklos by telephone regarding signing the Declaration and assignment documents. I was verbally

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informed that Dr. Miklos refused to sign the declaration and assignment documents under the present circumstances between him and the assignee, Human Genetic Signatures Pty. Ltd.

4. On May 23, 2006, I again contacted Dr. Miklos by telephone regarding the declaration and assignment documents and was verbally informed that he still refused to sign the declaration and assignment documents.
5. At a meeting between me and Dr. Miklos at our law offices on May 25, 2006, I presented him with a complete set of application papers for the above-referenced application, including specification, drawings, claims, declaration, and assignment for his review. After reviewing the application papers, Dr. Miklos refused to sign the documents.
6. On June 28, 2006, I contacted Dr. Miklos by telephone regarding the declaration and assignment and was again verbally informed that he still refused to sign the documents.
7. I telephoned Dr. Miklos on September 12, 2006 regarding the declaration and assignment, and he again stated that he refused to sign these documents.
8. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of any patent issuing thereon.

Dated: 25 September 2006

By: Trevor Davies
Dr. Trevor J. Davies
Partner
Allens Arthur Robinson Patent & Trademark
Attorneys
Sydney, NSW Australia.

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